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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/699,312

10/27/2000

Edward I. Comer

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7590

09/17/2004

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EXAMINER

FERGUSON, KEITH

ART UNIT

PAPER NUMBER

2683

DATE MAILED: 09/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/699,312

Applicant(s)

COMER ET AL.

Examiner

Keith T. Ferguson

Art Unit

2683

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.


The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 14-19 and 21-27.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-13 and 20.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

  
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SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

Continuation of 2. NOTE: Regarding claim 9, lines 13-16, the newly admission limitation "first" changes the scope of the claim and raises new issues that would require further consideration and/or search. Regarding claim 1, applicant arguments, page 14, lines 9-19, mailed June 23, 2004, that prior art Srinivasan does not disclose a method where the identity of a data communication device and the data format for that communication are determined from a transmission received from another communication device, and that Srinivasan does not determine a selected data format, from a group of least three data formats, based upon the identity of the receiving device as determined by the transmission.

Examiner explanation: Examiner agrees with applicant. However, Claim 1 does not disclose "

a method where the identity of a data communication device and the data format for that communication are determined from a transmission received from another communication device, and a selected data format, from a group of least three data formats, based upon the identity of the receiving device as determined by the transmission".

Argument: Applicant alleges that there is no teaching or motivation to combine Collins and Srinivasan. Explanation: Examiner respectfully disagrees, in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teaching of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. It is not necessary that the reference actually suggest, expressly or in so many words the changes or improvements that applicants has made. The test for combine references is what the references as a whole would have suggested to one of ordinary skill in the art. The Collins reference teaches a system for interconnecting a plurality of data communication devices. The Srinivasan reference only teaches a system for selecting a selected data format from group of at least three data formats, the selected data format being expected by the second device, which the Collins reference lacks.